



Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Fourteenth Meeting Day

Tuesday Afternoon

February 1, 2005

The Senate convened at 1:30 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

Prayer was offered by Pastor Jack Wolfe, First United Methodist Church, Noblesville, the guest of Senator Howard A. "Luke" Kenley III.

The Pledge of Allegiance to the Flag was led by Senator Kenley.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft <input checked="" type="checkbox"/>	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 45: present 49; excused 1. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 5

Senate Concurrent Resolution 5, introduced by Senators Wyss and Lewis:

A CONCURRENT RESOLUTION to memorialize the life of Harold "Potch" Wheeler, Indiana State Senator from 1983-2002.

Whereas, Senator Harold "Potch" Wheeler was elected to the Indiana Senate on September 14, 1983;

Whereas, For 19 years, the popular senator from Larwill was a strong advocate for his District 17 constituents in Northeastern Indiana;

Whereas, For many years while serving in the Senate, Senator Wheeler was president of his family's well-drilling business, M.C. Wheeler & Sons, Inc., which was founded by his great-grandfather and is carried on today by his son;

Whereas, As Majority Caucus Chairman, Director of Caucus Operations, Chairman of the Committee on Appointments and Claims, and a member of the Legislative Council, Senator Wheeler was a commanding presence in the Senate and made a significant mark on the public policy of Indiana;

Whereas, During his tenure, Senator Wheeler served as the ranking member of the Committee on Natural Resources and as a member of the Pensions and Labor Committee and the Rules and Legislative Procedures Committee;

Whereas, Senator Wheeler was committed to preserving and improving Indiana's invaluable natural resources and furthered this goal by serving as Chairman of a water study committee to protect the state's water resources;

Whereas, Being an avid golfer and fisherman, Senator Wheeler often enjoyed those very natural resources in his spare time outside of the Senate;

Whereas, In honor of his lifetime achievements, a boulder monument was dedicated to Senator Wheeler in an outdoor ceremony at the Pisgah March Wildlife Diversity Area;

Whereas, A portion of State Road 5 was renamed the "Harold H. (Potch) Wheeler Highway" in honor of his retirement from the Senate;

Whereas, From the time he was a freshman senator, Senator Wheeler made a positive impact on his community, his state, and the people around him;

Whereas, Senator Wheeler passed away at the age of 75 after battling multiple myeloma, a form of bone cancer;

Whereas, Senator Wheeler is survived by his wife, Darlene; his children, Johnna, Kim and Tara; seven grandchildren, and two great-grandchildren; and

Whereas, Senator Wheeler was characterized by his wit, charm, integrity, and leadership in the Indiana State Senate and is missed greatly by his fellow Senators and all those who had the honor of working with him: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the members of the Indiana General Assembly memorialize the life of Senator Harold "Potch" Wheeler, a true credit to the institution of the Indiana Senate and a dedicated public servant to the citizens of Indiana.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Darlene Wheeler and to each of their children.

The resolution was read in full and adopted by standing vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Friend, Grubb, and Whetstone.

SENATE MOTION

Madam President: I move that Senators Alting, Antich-Carr, Bowser, Bray, Breaux, Broden, Clark, Craycraft, Dillon, Drozda, Ford, Gard, Garton, Harrison, Heinold, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Long, Lubbers, Lutz, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Server, Simpson, Sipes, Skinner, Smith, Steele, Waltz, Waterman, Weatherwax, M. Young, R. Young, and Zakas be added as coauthors of Senate Concurrent Resolution 5.

WYSS

Motion prevailed.

House Concurrent Resolution 6

House Concurrent Resolution 6, sponsored by Senator Heinold:

A CONCURRENT RESOLUTION to honor Jeff and Andrea Mitzner of Wanatah in LaPorte County as recipients of this year's national American Farm Bureau Federation Young Farmer & Rancher Achievement Award.

Whereas, Jeff and Andrea Mitzner, an Indiana farm couple, were announced as the winners of this national award on January 10, 2005 during the Young Farmer awards program at the American Farm Bureau Federation convention in Charlotte, North Carolina;

Whereas, This award is one of the most prestigious awards presented by the American Farm Bureau Federation;

Whereas, Jeff and Andrea Mitzner were selected from a field of 33 state winners from across the country;

Whereas, Jeff and Andrea Mitzner qualified for the national competition by first winning the Indiana Young Farmer Achievement Award during the Indiana Farm Bureau's state convention on December 18, 2004;

Whereas, The Young Farmer Achievement Award recognizes young Farm Bureau members whose farm management techniques and commitment to their community set a positive example for those involved in production agriculture;

Whereas, Jeff and Andrea Mitzner are considered outstanding participants by the American Farm Bureau Federation in agricultural operation growth, financial progress, and leadership within and outside of Farm Bureau;

Whereas, Jeff and Andrea Mitzner are known for being a team both on and off their grain farm in northwest Indiana;

Whereas, Unlike many farmers, Jeff and Andrea Mitzner started their operation on their own without inheriting any land or equipment;

Whereas, Jeff and Andrea Mitzner are tremendous assets to their community and to the State of Indiana as evidenced by their diligence and accomplishment in receiving this award; and,

Whereas, According to the American Farm Bureau Federation, the Young Farmer Achievement Award recognizes Jeff and Andrea Mitzner as young farmers and ranchers who have excelled in their farm operations and have exhibited superior leadership abilities: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the House of Representatives of the General Assembly do honor Jeff and Andrea Mitzner as recipients of this year's national American Farm Bureau Federation Young Farmer & Rancher Achievement Award.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Jeff and Andrea Mitzner.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

Senate Concurrent Resolution 20

Senate Concurrent Resolution 20, introduced by Senator Landske:

A CONCURRENT RESOLUTION urging the Department of Transportation to designate State Road 55 between U.S. 231 and State Road 2 as the "Murrell Belanger Memorial Highway."

Whereas, Murrell Belanger was a well-regarded businessman who owned Crown Point Chrysler-Plymouth Sales and was a racing enthusiast;

Whereas, In 1951, Murrell Belanger's "#99 Belanger Special" won the Indianapolis 500;

Whereas, The "#99 Belanger Special" was the first race car to win on all major racetracks, the first to win the Indianapolis 500 in less than four hours, the first to use disc brakes and a tube frame, the first to use alloy wheels and torsion bars, the first to weigh less than 2,000 pounds, and the first to win the most points in one season until A.J. Foyt broke that record in 1964;

Whereas, The "#99 Belanger Special" was featured in the 1950 movie "To Please a Lady";

Whereas, The "#99 Belanger Special" was kept and maintained in Lowell until it was donated to the Indianapolis Motor Speedway Museum by Murrell Belanger; and

Whereas, The "#99 Belanger Special" is still considered "the world's premiere race car" and is on permanent display at the Indianapolis Motor Speedway Museum: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly recognizes the importance of Murrell Belanger's contributions to auto racing and requests that the Indiana Department of Transportation memorialize his contributions to the communities of Lowell and Crown Point by designating State Road 55 from U.S. 231 to State Road 2 as the "Murrell Belanger Memorial Highway."

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Donna Belanger-Haniford, Tom Hawes, and the Commissioner of the Indiana Department of Transportation.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Kuzman.

House Concurrent Resolution 5

House Concurrent Resolution 5, sponsored by Senator Wyss:

A CONCURRENT RESOLUTION to honor and congratulate Fort Wayne Snider High School band members.

Whereas, Megan Austin and Jon Schaab were invited to march in the 2005 Tournament of Roses parade;

Whereas, Megan Austin, a 2004 graduate of Snider High School, played the flute in the parade;

Whereas, Jon Schaab, a senior at Snider High School, was a drum major during the parade;

Whereas, Both band members were invited by the Bands of America organization to participate in the Rose Bowl parade;

Whereas, The first Rose Bowl Parade was held in 1890 and the event has grown in such popularity that it is cast in 75 countries;

Whereas, Megan Austin and Jon Schaab were among 330 young people from around the country selected to participate in the Rose Bowl Parade; and

Whereas, Megan Austin and Jon Schaab earned this honor through their many hours of hard work and practice: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the House of Representatives of the General Assembly do honor Fort Wayne Snider High School band member's Megan Austin and Jon Schaab for their participation in the 2005 Tournament of Roses parade.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Megan Austin and Jon Schaab.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred Senate Bill 566, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 5, between lines 5 and 6, begin a new line double block indented and insert:

"(I) Existing regulatory and administrative barriers to the implementation of the health care information and communication technology system recommended under this SECTION."

Page 5, line 6, delete "(I)" and insert "(J)".

(Reference is to SB 566 as introduced.)

and when so amended that said bill be recommitted to the Senate Committee on Appropriations.

Committee Vote: Yeas 10, Nays 0.

FORD, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill 140, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-32-6-16.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.4. "Licensed supply"

refers to any of the following:

- (1) Bingo cards.
- (2) Bingo boards.
- (3) Bingo sheets.
- (4) Bingo pads.
- (5) Any other supplies, devices, or equipment designed to be used in playing bingo designated by rule of the department.
- (6) Pull tabs.
- (7) Punchboards.
- (8) Tip boards."

Page 1, line 13, delete "(a)".

Page 1, line 13, strike "The".

Page 1, strike lines 14 through 15.

Page 1, line 16, delete "(b)" and insert "(a)".

Page 2, delete lines 1 through 5, begin a new paragraph and insert:

"(b) To determine the net proceeds from an allowable event, a qualified organization shall subtract the following from the gross receipts received from the allowable event:

- (1) An amount equal to the total value of the prizes, including door prizes, awarded at the allowable event.**
- (2) The sum of the purchase prices paid for licensed supplies dispensed at the allowable event.**
- (3) An amount equal to the qualified organization's license fees attributable to the allowable event."**

Renumber all SECTIONS consecutively.

(Reference is to SB 140 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

KENLEY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill 619, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "orders" and insert "**agency actions**".

Page 2, line 9, strike "decisions" and insert "**agency actions**".

(Reference is to SB 619 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 0.

GARD, Chair

Report adopted.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 7 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the

Senate that the House has passed Senate Concurrent Resolution 25 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 6 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1039, 1057, 1080, 1105, 1219, 1263, 1325, and 1346 and the same are herewith transmitted to the Senate for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

SENATE BILLS ON SECOND READING

Senate Bill 14

Senator Lawson called up Senate Bill 14 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 14-1)

Madam President: I move that Senate Bill 14 be amended to read as follows:

Page 2, line 9, delete "or beginning of the ballot".

Page 4, line 38, delete "ballot;" and insert "ballot,".

Page 4, delete line 39.

Page 4, line 40, delete "specified in IC 3-11-13-11 if voting is by".

Page 4, line 40, delete "card;" and insert "card,".

Page 4, line 41, reset in roman "or".

Page 4, delete line 42.

Page 5, delete lines 1 through 4.

Page 5, line 5, delete "if voting is by an".

Run in page 4, line 38 through page 5, line 5.

Page 5, line 6, delete "(4)" and insert "(2)".

Page 5, line 18, delete "IC 3-11-2-10, IC 3-11-13-11, or IC 3-11-14-3.5" and insert "IC 3-11-2-10".

Page 6, line 16, reset in roman "or a ballot card".

Page 6, line 17, reset in roman "is".

Page 6, line 17, delete "are".

Page 6, line 19, reset in roman "or".

Page 6, line 20, reset in roman "in a separate column on the ballot label".

Page 6, line 20, delete "either:".

Page 6, delete lines 21 through 23.

Page 6, line 24, delete "used; or" and insert "used.".

Page 6, run in lines 20 through 24.

Page 6, delete lines 25 through 26.

Page 6, delete lines 30 through 42.

Delete pages 7 through 13.

Page 14, delete lines 1 through 37.

Page 15, line 18, delete "mark:" and insert "mark".

Page 15, line 19, delete "(1)".

Page 15, line 19, delete "device;" and insert "device".

Page 15, line 19, reset in roman "and beside the name under".

Page 15, line 20, reset in roman "which the candidates of the party or".

Page 15, line 20, after "petitioners" insert **"independent ticket (described in IC 3-11-2-6)"**.

Page 15, line 20, reset in roman "are".

Page 15, line 21, reset in roman "printed".

Page 15, line 21, delete "or".

Page 15, delete lines 22 through 24.

Page 15, line 25, delete "independent ticket (described in IC 3-11-2-6)".

Page 15, run in lines 18 through 25.

Page 15, line 29, delete "circle, arrow, oval, or square" and insert "circle".

Page 15, delete lines 32 through 42.

Delete pages 16 through 18.

Page 19, delete lines 1 through 24.

Page 21, delete lines 26 through 42.

Delete pages 22 through 26.

Page 27, delete lines 1 through 10.

Renumber all SECTIONS consecutively.

(Reference is to SB 14 as printed January 26, 2005.)

LUTZ

Motion failed. The bill was ordered engrossed.

Senate Bill 278

Senator Meeks called up Senate Bill 278 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 417

Senator Lawson called up Senate Bill 417 for second reading. The bill was read a second time by title.

SENATE MOTION

(Amendment 417-1)

Madam President: I move that Senate Bill 417 be amended to read as follows:

Page 2, after line 26, begin a new paragraph and insert:

"(e) The Commissioner of the Department of Correction is authorized to refuse to sell any property that is located within one thousand (1000) feet from the facility's secured perimeter. No land can be sold which would interfere with any existing utility easements to the facilities."

Page 2, line 27, delete "(e)" and insert "(f)".

(Reference is to SB 417 as printed January 28, 2005.)

BRAY

Motion prevailed. The bill was ordered engrossed.

2:54 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 5:00 p.m., with Senator Garton in the Chair.

ENGROSSED HOUSE BILLS ON SECOND READING

Engrossed House Bill 1003

Senator Ford called up Engrossed House Bill 1003 for second reading. The bill was read a second time by title.

SENATE MOTION

(Amendment 1003-5)

Madam President: I move that Engrossed House Bill 1003 be amended to read as follows:

Page 43, line 5, delete "The" and insert **"Subject to approval by the budget agency, the"**.

Page 43, line 6, delete "or any other state officer," and insert ",".

Page 43, line 10, delete "The" and insert **"Subject to approval by the budget agency, the"**.

Page 43, line 11, delete "or any other state officer." and insert ".".

Page 50, line 11, after "deposited" insert **"in"**.

Page 53, line 25, after "deposited" insert **"in"**.

Page 72, line 16, delete "(c)" and insert **"(d)"**.

Page 72, line 21, delete "(d)" and insert **"(e)"**.

Page 76, line 20, delete "phase-out" and insert **"phaseout"**.

Page 82, line 27, after "deposited" insert **"in"**.

Page 87, line 7, after "chapter." insert **"However, the corporation shall assume the debt of the small business development corporation that is outstanding on the date the small business development corporation is abolished."**

Page 89, line 6, after "deposited" insert **"in"**.

Page 103, line 4, delete "26." and insert **"23."**

Page 104, line 27, after "chapter." insert **"However, the corporation shall assume the debt of the business modernization and technology corporation that is outstanding on the date the business modernization and technology corporation is abolished."**

Page 104, line 32, delete "23." and insert **"24."**

Page 105, line 22, delete "office." and insert **"corporation."**

Page 106, line 35, delete "24." and insert **"25."**

Page 108, delete lines 17 through 42.

Delete page 109.

Page 110, delete lines 1 through 33.

Page 133, delete lines 39 through 42, begin a new paragraph and insert:

"SECTION 66. IC 6-3.1-13-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. As used in this chapter, "corporation" means the Indiana economic development corporation established by IC 5-28-3-1.

SECTION 67. IC 6-3.1-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "credit amount" means the amount agreed to between the ~~board~~ corporation and applicant under this chapter, but not to exceed, in the case of a credit awarded for a project to create new

jobs in Indiana, the incremental income tax withholdings attributable to the applicant's project.

SECTION 68. IC 6-3.1-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "director" means the **director president** of the ~~department of commerce~~ **corporation**.

SECTION 69. IC 6-3.1-13-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The ~~board~~ **corporation** may make credit awards under this chapter to foster job creation in Indiana or, as provided in section 15.5 of this chapter, job retention in Indiana.

(b) The credit shall be claimed for the taxable years specified in the taxpayer's tax credit agreement.

SECTION 70. IC 6-3.1-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. A person that proposes a project to create new jobs in Indiana may apply, as provided in section 15 of this chapter, to the ~~board~~ **corporation** to enter into an agreement for a tax credit under this chapter. A person that proposes to retain existing jobs in Indiana may apply, as provided in section 15.5 of this chapter, to the ~~board~~ **corporation** to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

SECTION 71. IC 6-3.1-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. This section applies to an application proposing a project to create new jobs in Indiana. After receipt of an application, the ~~board~~ **corporation** may enter into an agreement with the applicant for a credit under this chapter if the ~~board~~ **corporation** determines that all of the following conditions exist:

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

~~(3) The political subdivisions affected by the project have committed significant local incentives with respect to the project.~~

~~(4)~~ (3) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

~~(5)~~ (4) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

~~(6)~~ (5) The credit is not prohibited by section 16 of this chapter.

SECTION 72. IC 6-3.1-13-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the ~~board~~ **corporation** may enter into an agreement with the applicant for a credit under this chapter if the ~~board~~ **corporation** determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

(2) The applicant provides evidence that there is at least one (1) other competing site outside Indiana that is being considered for the project or for the relocation of jobs.

(3) A disparity is identified, using the best available data, in the projected costs for the applicant's project in Indiana compared with the costs for the project in the competing site.

(4) The applicant is engaged in research and development, manufacturing, or business services (as defined in the Standard Industrial Classification Manual of the United States Office of Management and Budget).

(5) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%).

(6) The applicant employs at least two hundred (200) employees in Indiana.

(7) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

(8) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

(9) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(10) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

(11) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed at least one dollar and fifty cents (\$1.50) of local incentives with respect to the retention of jobs for every three dollars (\$3) in credits provided under this chapter. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

(12) The credit is not prohibited by section 16 of this chapter.

SECTION 73. IC 6-3.1-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the ~~board~~ **corporation**.

SECTION 74. IC 6-3.1-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that proposes a project to create jobs in Indiana, the ~~board~~ **corporation** shall take into consideration the following factors:

(1) The economy of the county where the projected investment is to occur.

- (2) The potential impact on the economy of Indiana.
- (3) The incremental payroll attributable to the project.
- (4) The capital investment attributable to the project.
- (5) The amount the average wage paid by the applicant exceeds the average wage paid within the county in which the project will be located.
- (6) The costs to Indiana and the affected political subdivisions with respect to the project.
- (7) The financial assistance **and incentives** that ~~is~~ **are** otherwise provided by Indiana and the affected political subdivisions.

As appropriate, the **board corporation** shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter. In the case of an applicant under section 15.5 of this chapter, the **board corporation** shall consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.

SECTION 75. IC 6-3.1-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The **board corporation** shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. In the case of a credit awarded for a project to create new jobs in Indiana, the credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess ~~shall may, at the discretion of the~~ **corporation**, be refunded to the taxpayer.

(b) For state fiscal years 2004 and 2005, the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed five million dollars (\$5,000,000) per year.

SECTION 76. IC 6-3.1-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. In the case of a credit awarded for a project to create new jobs in Indiana, the **board corporation** shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The duration of the tax credit and the first taxable year for which the credit may be claimed.
- (3) The credit amount that will be allowed for each taxable year.
- (4) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit. A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.
- (5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (6) A requirement that the taxpayer shall annually report to the **board corporation** the number of new employees who are

performing jobs not previously performed by an employee, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this chapter.

(7) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide written notification to the director and the **board corporation** not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the **board corporation** determines are appropriate.

SECTION 77. IC 6-3.1-13-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19.5. (a) In the case of a credit awarded for a project to retain existing jobs in Indiana, the **board corporation** shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the business that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the applicant shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit. An applicant is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A requirement that the applicant shall annually report the following to the **board corporation**:

(A) The number of employees who are employed in Indiana by the applicant.

(B) The compensation (including benefits) paid to the applicant's employees in Indiana.

(C) The amount of the:

(i) facility improvements;

(ii) equipment and machinery upgrades, repairs, or retrofits; or

(iii) other direct business related investments, including training.

(6) A requirement that the applicant shall provide written notification to the director and the **board corporation** not more than thirty (30) days after the applicant makes or receives a proposal that would transfer the applicant's state tax liability obligations to a successor taxpayer.

(7) A requirement that the chief executive officer of the company applying for a credit under this chapter must verify under penalty of perjury that the disparity between projected costs of the applicant's project in Indiana compared with the costs for the project in a competing site is real and actual.

(8) Any other performance conditions that the **board corporation** determines are appropriate.

(b) An agreement between an applicant and the ~~board~~ **corporation** must be submitted to the budget committee for review and must be approved by the budget agency before an applicant is awarded a credit under this chapter for a project to retain existing jobs in Indiana.

SECTION 78. IC 6-3.1-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A taxpayer claiming a credit under this chapter ~~must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit; all information that the department determines necessary for the calculation of the credit provided by this chapter and the determination of whether the credit was properly claimed.~~

SECTION 79. IC 6-3.1-13-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through entity is otherwise entitled under a separate agreement under this chapter. A pass through entity and a shareholder or partner of the pass through entity may not claim more than one (1) credit under the same agreement.

(c) This subsection applies only to a pass through entity that is a limited liability company or a limited liability partnership owned wholly or in part by an electric cooperative incorporated under IC 8-1-13. At the request of a pass through entity, if the ~~board~~ **corporation** finds that the amount of the average wage to be paid by the pass through entity will be at least double the average wage paid within the county in which the project will be located, the ~~board~~ **corporation** may determine that:

- (1) the credit shall be claimed by the pass through entity; and
- (2) if the credit exceeds the pass through entity's state income tax liability for the taxable year, the excess shall be refunded to the pass through entity.

If the ~~board~~ **corporation** grants a refund directly to a pass through entity under this subsection, the pass through entity shall claim the refund on forms prescribed by the department of state revenue.

SECTION 80. IC 6-3.1-13-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If the ~~director~~ **department of state revenue or the corporation** determines that a taxpayer who has ~~received~~ **claimed** a credit under this chapter is not ~~complying~~ **entitled to the credit because of the taxpayer's noncompliance** with the requirements of the tax credit agreement or all of the provisions of this chapter, the ~~director~~ **department or the corporation** shall, after giving the taxpayer an opportunity to explain the noncompliance, ~~notify the department of commerce of the noncompliance and request impose~~ **an assessment** ~~The director~~

~~shall state the on the taxpayer in an amount of the assessment, which that may not exceed the sum of any previously allowed credits under this chapter After receiving such a notice, the department of commerce shall make an assessment against the taxpayer under IC 6-8-1 for the amount stated in the director's notice; together with interest and penalties required or permitted by law.~~

SECTION 81. IC 6-3.1-13-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. On or before March 31 each year, the director shall submit a report to the ~~board~~ **corporation** on the tax credit program under this chapter. The report shall include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

SECTION 82. IC 6-3.1-13-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. On a biennial basis, the ~~board~~ **corporation** shall provide for an evaluation of the tax credit program. ~~giving first priority to using the Indiana economic development council, established under IC 4-3-14-4.~~ The evaluation shall include an assessment of the effectiveness of the program in creating new jobs and retaining existing jobs in Indiana and of the revenue impact of the program, and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year.

SECTION 83. IC 6-3.1-13-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. The ~~department of commerce~~ **corporation** may adopt rules under IC 4-22-2 necessary to implement this chapter. The rules may provide for recipients of tax credits under this chapter to be charged fees to cover administrative costs of the tax credit program. Fees collected shall be deposited in the economic development for a growing economy fund.

SECTION 84. IC 6-3.1-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter and IC 6-3.1-26, including paying for the costs of administering this chapter and IC 6-3.1-26. The fund shall be administered by the ~~department of commerce.~~ **corporation.**

(b) The fund consists of collected fees, appropriations from the general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from

the fund are subject to appropriation by the general assembly and approval by the budget agency.

SECTION 85. IC 6-3.1-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Subject to all other requirements of this chapter, the **board corporation** may award a tax credit under this chapter to a nonprofit organization that is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5) if:

- (1) the nonprofit organization:
 - (A) is a taxpayer (as defined in section 10 of this chapter); and
 - (B) meets all requirements of this chapter; and
- (2) all of the following conditions are satisfied:
 - (A) The wages of at least seventy-five percent (75%) of the organization's total workforce in Indiana must be equal to at least two hundred percent (200%) of the average county wage, as determined by the ~~department of commerce~~, **corporation**, in the county where the project for which the credit is granted will be located.
 - (B) The organization must make an investment of at least fifty million dollars (\$50,000,000) in capital assets.
 - (C) The affected political subdivision must provide substantial financial assistance to the project.
 - (D) The incremental payroll attributable to the project must be at least ten million dollars (\$10,000,000) annually.
 - (E) The organization agrees to pay the ad valorem property taxes on the organization's real and personal property that would otherwise be exempt under IC 6-1.1-10.
 - (F) The organization does not receive any deductions from the assessed value of the organization's real and personal property under IC 6-1.1-12 or IC 6-1.1-12.1.
 - (G) The organization pays all of the organization's ad valorem property taxes to the taxing units in the taxing district in which the project is located.
 - (H) The project for which the credit is granted must be located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) Notwithstanding section 6(a) of this chapter, the **board corporation** may award credits to an organization under subsection (a) if:

- (1) the organization met all other conditions of this chapter at the time of the applicant's location or expansion decision;
- (2) the applicant is in receipt of a letter from the department of commerce stating an intent to pursue a credit agreement; and
- (3) the letter described in subdivision (2) is issued by the department of commerce not later than January 1, 2000."

Delete pages 134 through 138.

Page 139, delete lines 1 through 22.

Page 148, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 113. IC 6-3.1-26-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. As used in this chapter, "corporation" means the Indiana economic development corporation established by IC 5-28-3-1.

SECTION 114. IC 6-3.1-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures for:

- (1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing equipment;
- (2) the purchase of new computers and related equipment;
- (3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
- (4) onsite infrastructure improvements;
- (5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
- (6) costs associated with retooling existing machinery and equipment; and
- (7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry;

that are certified by the **board corporation** under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

SECTION 115. IC 6-3.1-26-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The **board corporation** may make credit awards under this chapter to foster job creation and higher wages in Indiana.

SECTION 116. IC 6-3.1-26-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A taxpayer that:

- (1) is awarded a tax credit under this chapter by the **board corporation**; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the **board corporation** and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year.

SECTION 117. IC 6-3.1-26-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. A person that proposes a project to create new jobs or increase wage levels in Indiana may apply to the **board corporation** before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

SECTION 118. IC 6-3.1-26-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. After receipt of an application, the **board corporation** may enter into an agreement with the applicant for a credit under this chapter if the **board corporation** determines that all the following conditions exist:

- (1) The applicant has conducted business in Indiana for at least one (1) year immediately preceding the date the application is received.
- (2) The applicant's project will raise the total earnings of employees of the applicant in Indiana.
- (3) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

(4) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not raising the total earnings of employees in Indiana.

(5) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(6) The credit is not prohibited by section 19 of this chapter.

(7) The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

SECTION 119. IC 6-3.1-26-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the ~~board~~ **corporation**.

SECTION 120. IC 6-3.1-26-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. The ~~board~~ **corporation** shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the ~~board~~ **corporation** shall grant a credit only for the amount of the qualified investment that is directly related to expanding the workforce in Indiana.

SECTION 121. IC 6-3.1-26-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The ~~board~~ **corporation** shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.
- (4) The maximum tax credit amount that will be allowed for each taxable year.
- (5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (7) A requirement that the taxpayer shall annually report to the ~~board~~ **corporation** the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.
- (8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
- (9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees

in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the ~~board~~ **corporation** not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the ~~board~~ **corporation** determines are appropriate.

SECTION 122. IC 6-3.1-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. On or before March 31 each year, the director shall submit a report to the ~~board~~ **corporation** on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly."

Page 148, line 19, strike "board" and insert "**corporation**".

Page 148, line 20, delete "," and insert ".".

Page 148, line 20, strike "giving first priority to using the Indiana economic".

Page 148, line 21, strike "development".

Page 148, line 21, delete "corporation".

Page 148, line 21, strike "established under".

Page 148, line 22, delete "IC 5-28-3".

Page 194, line 16, delete "IC 6-3.1-13-3." and insert "IC 6-3.1-13-1; IC 6-3.1-13-12; IC 6-3.1-26-2".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1003 as printed January 28, 2005.)

FORD

Motion prevailed.

SENATE MOTION (Amendment 1003-10)

Madam President: I move that Engrossed House Bill 1003 be amended to read as follows:

Page 42, between lines 15 and 16, begin a new line blocked indented and insert: **(3) Members residing in various geographical areas of the state.**

(Reference is to EHB 1003 as printed January 28, 2005.)

HUME

Upon request of Senator Hume the President ordered the roll of the Senate to be called. Roll Call 46: yeas 16, nays 31.

Motion failed.

SENATE MOTION
(Amendment 1003-2)

Madam President: I move that Engrossed House Bill 1003 be amended to read as follows:

Page 44, line 26, after "fund." insert "**The corporation must report to the budget committee each year concerning:**

- (1) the use of money received under subsection (b);**
- (2) the name of each person who provided a gift, donation, bequest, devise, contribution, or other funding under subsection (a) and the amount and use of the gift, donation, bequest, devise, contribution, or other funding; and**
- (3) the balance in the fund."**

Page 45, line 5, delete "and", begin a new line double block indented and insert:

"(B) the name of each person who provided a gift, donation, bequest, devise, contribution, or other funding under subsection (a) and the amount and use of the gift, donation, bequest, devise, contribution, or other funding; and"

Page 45, line 6, delete "(B)" and insert "(C)".

(Reference is to EHB 1003 as printed January 28, 2005.)

SIMPSON

Upon request of Senator Simpson the President ordered the roll of the Senate to be called. Roll Call 47: yeas 16, nays 31.

Motion failed.

SENATE MOTION
(Amendment 1003-6)

Madam President: I move that Engrossed House Bill 1003 be amended to read as follows:

Page 42, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 8. (a) As used in this section, "benefit recipient" means any person, individual, or entity that receives a grant, a loan, a tax credit, or another benefit from the corporation or an entity owned or administered by the corporation.

(b) Not later than January 15 of each year every member of the board shall file with the secretary of state a written statement of the member's economic interests for the preceding calendar year listing the following:

- (1) The name of all the member's employers and the employers of the member's spouse and the nature of each employer's business. The corporation need not be listed as an employer.**
- (2) The name of any sole proprietorship owned or professional practice operated by the member or the member's spouse and the nature of the business.**
- (3) The name of any partnership of which the member or the member's spouse is a member and the nature of the partnership's business.**

(4) The name of any limited liability company of which the member or the member's spouse has an interest.

(5) The name of any corporation of which the member or the member's spouse is an officer or a director and the nature of the corporation's business. Churches need not be listed.

(6) The name of any corporation in which the member or the member's spouse or unemancipated children own stock or stock options having a fair market value that exceeds ten thousand dollars (\$10,000). No time or demand deposit in a financial institution or insurance policy need be listed.

(7) The name of any state agency or the supreme court of Indiana that licenses or regulates the following:

(A) The member's or the member's spouse's profession or occupation.

(B) Any proprietorship, partnership, limited liability company, or corporation, listed under subdivision (2), (3), (4), or (5) and the nature of the licensure or regulation.

The requirement to file certain reports with the secretary of state or to register with the department of state revenue as a retail merchant, manufacturer, or wholesaler shall not be considered as licensure or regulation.

(8) The name of any person whom the member knows to have been a benefit recipient in the previous calendar year and knows to have purchased from the member, the member's sole proprietorship, the member's partner, or the member's family business, any goods or services from any benefit recipient. This subdivision does not apply to purchases from a retail business that are made in the ordinary course of business at prices that are available to the general public.

(9) The name of any person or entity from whom the member received any of the following from any benefit recipient:

(A) Any gift of cash.

(B) Any single gift other than cash having a fair market value that exceeds one hundred dollars (\$100).

(C) Any gifts other than cash having a fair market value in total that exceeds two hundred fifty dollars (\$250).

A contribution made by a benefit recipient to a charitable organization (as defined in Section 501(c) of the Internal Revenue Code) in connection with a social or sports event attended by a member need not be listed. Gifts to a member from a spouse or close relative of the member need not be listed unless the donor has a substantial economic interest in a benefit recipient.

(10) The name of any benefit recipient who is:

(A) a member of a partnership or limited liability company;

(B) an officer or a director of a corporation; or

(C) a manager of a limited liability company;

of which the board member is a partner, an officer, a director, a member, or an employee.

(11) The name of any person or entity on whose behalf the member has appeared before, contacted, or transacted

business with any state agency or official thereof, the name of the state agency, the nature of the appearance, contact, or transaction, and the cause number, if any. This requirement does not apply when the services are rendered without compensation.

(12) Any contribution, as defined in IC 3-5-2-15, made by the board member.

(c) Before any person may become a member of the board, the person shall file with the secretary of state the same written statement of economic interests for the preceding calendar year that this section requires board members to file.

(d) Any member may file an amended statement upon discovery of additional information required to be reported.

(e) The statements of economic interest shall be filed on forms provided by the secretary of state. Statements shall be kept by the secretary of state for one (1) year after the expiration of the term during which they were filed. Any statement filed under this section is open to public inspection and copies shall be made available to any person for a reasonable fee."

Page 199, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 137. [EFFECTIVE UPON PASSAGE] **IC 5-28-4-8, as added by this act, applies only to contributions made after the effective date of this act.**"

Renumber all SECTIONS consecutively.

(Reference is to EHB 1003 as printed January 28, 2005.)

SIMPSON

Upon request of Senator Simpson the President ordered the roll of the Senate to be called. Roll Call 48: yeas 16, nays 32.

Motion failed.

SENATE MOTION (Amendment 1003-11)

Madam President: I move that Engrossed House Bill 1003 be amended to read as follows:

Page 42, delete lines 22 and 23.

(Reference is to EHB 1003 as printed January 28, 2005.)

LANANE

Upon request of Senator Lanane the President ordered the roll of the Senate to be called. Roll Call 49: yeas 16, nays 32.

Motion failed.

SENATE MOTION (Amendment 1003-1)

Madam President: I move that Engrossed House Bill 1003 be amended to read as follows:

Page 42, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 8. (a) The definitions in IC 3-5-2 apply to this section to the extent they do not conflict with the definitions in this article.

(b) A member of the board appointed under section 2(a)(2) of this chapter may not make a contribution to any of the following:

(1) The governor or a candidate for governor.

(2) A member of the general assembly or a candidate for legislative office.

(3) A candidate's committee for an individual described in subdivision (1) or (2).

(4) A committee organized by a legislative caucus of the general assembly.

(c) A person who knowingly or intentionally violates this section commits a Class C misdemeanor."

Page 199, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 137. [EFFECTIVE UPON PASSAGE] **IC 5-28-4-8, as added by this act, applies only to contributions made after the effective date of this act.**"

Renumber all SECTIONS consecutively.

(Reference is to EHB 1003 as printed January 28, 2005.)

SIMPSON

Upon request of Senator Rogers the President ordered the roll of the Senate to be called. Roll Call 50: yeas 16, nays 32.

Motion failed. The bill was ordered engrossed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 72, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-15-19-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: **Sec. 9.5. (a) For each state fiscal year ending after June 30, 2004, a community mental health center disproportionate share provider that is:**

(1) freestanding from a hospital licensed under IC 16-21; and

(2) not operated as part of a hospital licensed under IC 16-21;

shall receive a disproportionate share payment as provided in this section.

(b) Subject to subsection (f), a community mental health center disproportionate share provider described in subsection (a) shall receive a payment in the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amounts certified for the community mental health center disproportionate share provider under IC 12-15-18-5.1(e).

STEP TWO: Divide the amount determined under STEP ONE by a percentage equal to the state's federal medical assistance percentage for the state fiscal year.

STEP THREE: Subtract the amount determined under

STEP ONE from the amount determined under STEP TWO.

(c) A disproportionate share payment under this section is considered of:

- (1) the amounts certified for the community mental health center disproportionate share provider under IC 12-15-18-5.1(e); and**
- (2) the amount paid to the community mental health center disproportionate share provider under subsection (b).**

(d) A disproportionate share payment under this section may not exceed the community mental health center disproportionate share provider's institution specific limit under 42 U.S.C. 1396r-4(g). The office shall determine the institution specific limit for a state fiscal year by taking into account data provided by the community mental health center disproportionate share provider that is considered reliable by the office based on:

- (1) a periodic audit system;**
- (2) the use of trending factors; and**
- (3) an appropriate base year determined by the office.**

(e) The office may require independent certification of data provided by a community mental health center disproportionate share provider to the office in order to determine the community mental health center disproportionate share provider's institution specific limit.

(f) Subject to section 10(b)(2) and 10(b)(3) of this chapter, payments under this section may not result in total disproportionate share payments that are in excess of the state limit on these expenditures for institutions for mental diseases under 42 U.S.C. 1396r-4(h). The office may reduce payments due under this section for a state fiscal year, on a pro rata basis, if the reduction is necessary to avoid exceeding the state limit on disproportionate share expenditures for institutions for mental diseases.

(g) Subject to section 10(b)(3) of this chapter, total disproportionate share payments under this section for a state fiscal year must equal ten million dollars (\$10,000,000). However, this amount may be reduced based upon the amounts certified for community mental health center disproportionate share providers under IC 12-15-18-5.1(e). The office may reduce the payments due under this section, on a pro rata basis, based upon the institution specific limits under 42 U.S.C. 1396r-4(g) of each community mental health center disproportionate share provider eligible for a payment under this section for that state fiscal year, if the reduction is necessary to avoid exceeding the total payment limit established under this subsection.

(h) The office may recover a payment made under subsection (b) from the community mental health center disproportionate share provider if federal financial participation is disallowed for the funds certified under IC 12-15-18-5.1(e) upon which the payment was based.

SECTION 2. IC 12-15-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 10. (a) For the state fiscal year beginning July 1, 1999, and ending June 30, 2000, the state shall pay providers as follows:

- (1) The state shall make disproportionate share provider**

payments to municipal disproportionate share providers qualifying under IC 12-15-16-1(b) until the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)).

(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall make community mental health center disproportionate share provider payments to providers qualifying under IC 12-15-16-1(c). The total paid to the qualified community mental health center disproportionate share providers under section 9(a) of this chapter, including the amount of expenditures certified as being eligible for federal financial participation under IC 12-15-18-5.1(e), must be at least six million dollars (\$6,000,000).

(3) After the state makes all payments under subdivision (2), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), the state shall make disproportionate share provider payments to providers qualifying under IC 12-15-16-1(a).

(b) For state fiscal years beginning after June 30, 2000, the state shall pay providers as follows:

(1) The state shall make municipal disproportionate share provider payments to providers qualifying under IC 12-15-16-1(b) until the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)).

(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), the state shall make disproportionate share provider payments to providers qualifying under IC 12-15-16-1(a). **Beginning in a state fiscal year ending after June 30, 2004, the total disproportionate share payments made to a state mental health institution described in IC 12-24-1-3 must be limited to an amount necessary to permit disproportionate share payments to be made under section 9.5 of this chapter without exceeding the state limit on disproportionate share expenditures for institutions for mental diseases under 42 U.S.C. 1396r-4(h).**

(3) After the state makes all payments under subdivision (2), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall make community mental health center disproportionate share provider payments to providers qualifying under IC 12-15-16-1(c); **disproportionate share payments under section 9.5 of this chapter.**

SECTION 3. An emergency is declared for this act.

(Reference is to SB 72 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

GARTON, Chair

Report adopted.

SENATE MOTION

Madam President: I move that Senator Mrvan be added as coauthor of Senate Bill 322.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lewis be added as second author of Senate Bill 330.

FORD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Mrvan be added as coauthor of Senate Bill 18.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 72 and that Senator Zakas be substituted therefor.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that the Senate rescind its action whereby it adopted the Senate Motion to add Senator Lewis as second author of Senate Bill 330.

FORD

Motion prevailed.

5:33 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 5:40 p.m., with Senator Garton in the Chair.

SENATE MOTION

Madam President: I move that Senator Weatherwax be added as coauthor of Senate Bill 444.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lewis be added as coauthor of Senate Bill 122.

PAUL

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Lewis be removed as author of Senate Bill 330 and that Senator Ford be substituted therefor.

LEWIS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Breaux be added as coauthor of Engrossed Senate Bill 420.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Rogers be added as coauthor of Senate Bill 278.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Breaux be added as coauthor of Engrossed Senate Bill 340.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kruse be added as coauthor of Senate Bill 570.

MISHLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Sipes be added as second author and Senators Lawson and Simpson be added as coauthors of Senate Bill 538.

GARD

Motion prevailed.

5:49 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 5:54 p.m., with Senator Garton in the Chair.

SENATE MOTION

Madam President: I move that Senator Lewis be added as second author of Senate Bill 330.

FORD

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, February 3, 2005.

LONG

Motion prevailed.

The Senate adjourned at 5:55 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate